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U.S. PTO

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004002-003462.DAC.262414

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR § 1.53(b))

|                        |   |
|------------------------|---|
| Attorney Docket No.    | 4002-3462/PC947.00  |
| First Inventor         | T. Andrew Simonton  |
| Title                  | SYSTEMS AND TECHNIQUES FOR RESTORING AND MAINTAINING INTERVERTEBRAL ANATOMY |
| Express Mail Label No. | EV 394 105 734 US   |

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents

Mail Stop Patent Application

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450U.S. PTO  
10/17661-67  
22581

|  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> *Fee Transmittal Form (e.g., PTO/SB/17)<br>(submit an original and a duplicate for fee processing)  | 7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)  |
| 2. <input type="checkbox"/> Applicant claims small entity status.<br>See 37 CFR 1.27.  | 8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission<br>(if applicable, all necessary) <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> Computer Readable Form (CRF)</li> <li>b. Specification Sequence Listing on:               <ul style="list-style-type: none"> <li>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or</li> <li>ii. <input type="checkbox"/> paper</li> </ul> </li> <li>c. <input type="checkbox"/> Statements verifying identity of above copies</li> </ul> |
| 3. <input checked="" type="checkbox"/> Specification<br>(preferred arrangement set forth below) <ul style="list-style-type: none"> <li>- Descriptive title of the Invention</li> <li>- Cross References to Related Applications</li> <li>- Statement Regarding Fed sponsored R &amp; D</li> <li>- Reference sequence listing, a table, or a computer program listing appendix or computer program listing appendix</li> <li>- Background of the Invention</li> <li>- Brief Summary of the Invention</li> <li>- Brief Description of the Drawings (if filed)</li> <li>- Detailed Description</li> <li>- Claim(s)</li> <li>- Abstract of the Disclosure</li> </ul> | 9. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s))   |
| 4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) [Total Sheets 20]<br><input checked="" type="checkbox"/> Informal <input type="checkbox"/> Formal  | 10. <input type="checkbox"/> 37 C.F.R. § 3.73(b) Statement <input type="checkbox"/> Power of Attorney<br>(when there is an assignee)   |
| 5. Oath or Declaration [Total Pages 4]   | 11. <input type="checkbox"/> English Translation Document (if applicable)  |
| a. <input checked="" type="checkbox"/> Newly executed (original or copy)   | 12. <input checked="" type="checkbox"/> Information Disclosure Citation (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations  |
| b. <input type="checkbox"/> Copy from a prior application (37 C.F.R. § 1.63(d))<br>(for continuation/divisional with Box 18 completed)   | 13. <input type="checkbox"/> Preliminary Amendment   |
| i. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b><br>Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. §§ 1.63(d)(2) and 1.33(b).  | 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503)<br>(Should be specifically itemized)  |
| 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76  | 15. <input type="checkbox"/> Certified Copy of Priority Document(s)<br>(if foreign priority is claimed)  |
| 18. If a CONTINUATING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:  | 16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).<br>Applicant must attach form PTO/SB/35 or its equivalent.  |
| <input type="checkbox"/> Continuation <input type="checkbox"/> Divisional <input checked="" type="checkbox"/> Continuation-in-part (CIP) of prior application No: 10/274,856   | 17. <input type="checkbox"/> Other: _____  |
| Prior application information: Examiner: _____ Group / Art Unit: 3738  |  |

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

|   |  |  |                |
|---|--|--|----------------|
| <input type="checkbox"/> Customer Number: | OR   | <input checked="" type="checkbox"/> Correspondence address below |                |
| Name                                      | Woodard, Emhardt, Moriarty, McNett & Henry LLP           |  |                |
| Address                                   | Bank One Center/Tower<br>111 Monument Circle, Suite 3700 |  |                |
| City                                      | Indianapolis   | State  | IN             |
| Country                                   | USA  | Telephone  | (317) 634-3456 |
| Name (Print/Type)                         | Douglas A. Collier                                       | Registration No. (Attorney/Agent)                                | 43,556         |
| Signature                                 | Douglas A. Collier                                       |  |                |
| Date                                      | January 28, 2004   |  |                |

**Express Mail Label Number EV 394 105 734 US****Date of Deposit January 28, 2004**

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Mail Stop Patent Application, P.O. Box 1450, Alexandria, VA 22313-1450.

Patricia E. Collier  
Signature of person mailing paper or fee

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS: SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# FEE TRANSMITTAL FOR FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

  Applicant claims small entity status. See 37 CFR 1.27

Total Amount of Payment (\$1314.00)

## Complete if Known

|                         |                    |
|-------------------------|--------------------|
| Application Number      |                    |
| Filing Date             |                    |
| First Named Inventor    | T. Andrew Sim nton |
| Group Art Unit          |                    |
| Examiner Name           |                    |
| Total Amount of Payment | (\$1314.00)        |
| Attorney Docket Number  | 4002-3462/PC947.00 |

## METHOD OF PAYMENT

## FEE CALCULATION (continued)

Check  Credit card  Money  Other  None Order

 Deposit Account:

Deposit Account Number 23-3030

Deposit Account Name Woodard, Emhardt, Moriarty, McNett &amp; Henry LLP

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description        | Fee Paid |
|----------------|-----------------|----------------|-----------------|------------------------|----------|
| 1001           | 770             | 2001           | 385             | Utility Filing Fee     | 770      |
| 1002           | 340             | 2002           | 170             | Design Filing Fee      |          |
| 1003           | 530             | 2003           | 265             | Plant Filing Fee       |          |
| 1004           | 770             | 2004           | 385             | Reissue Filing Fee     |          |
| 1005           | 160             | 2005           | 80              | Provisional Filing Fee |          |
| SUBTOTAL (1)   |                 |                |                 |                        | (\$770)  |

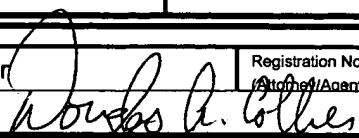
## 2. EXTRA CLAIM FEES

| Total Claims       | Extra Claims | Fee From Below | Fee Paid   |
|--------------------|--------------|----------------|------------|
| 48                 | -20** =      | 28             | X 18 = 504 |
| 3                  | -3** =       | 0              | X =        |
| Multiple Dependent |              |                | =          |

| Large Entity  | Small Entity | Fee Description |
|---|--------------|-----------------|
| Fee Code  | Fee (\$)     | Fee Code        |
| 1202  | 18           | 2202 9          |
| 1201  | 86           | 2201 43         |
| 1203  | 290          | 2203 145        |
| 1204  | 86           | 2204 43         |
| 1205  | 18           | 2205 9          |
| Claims in excess of 20                                    |              |                 |
| Independent claims in excess of 3                         |              |                 |
| Multiple dependent claim, if not paid                     |              |                 |
| **Reissue independent claims over original patent         |              |                 |
| **Reissue claims in excess of 20 and over original patent |              |                 |
| SUBTOTAL (2) (\$ 504)                                     |              |                 |

\*or number previously paid, if greater; For Reissues, see above

| 3. ADDITIONAL FEES                 | Large Entity | Small Entity | Fee Description | Fee Paid   |
|------------------------------------|--------------|--------------|-----------------|--|
| Fee Code                           | Fee (\$)     | Fee Code     | Fee (\$)        |  |
| 1051                               | 130          | 2051         | 65              | Surcharge – late filing fee or oath  |
| 1052                               | 50           | 2052         | 25              | Surcharge – late provisional filing fee or cover sheet                     |
| 1053                               | 130          | 1053         | 130             | Non-English specification  |
| 1812                               | 2,520        | 1812         | 2,520           | For filing a request for ex parte reexamination                            |
| 1804                               | 920*         | 1804         | 920*            | Requesting publication of SIR prior to Examiner's Action                   |
| 1805                               | 1,840*       | 1805         | 1,840*          | Requesting publication of SIR after Examiner's Action                      |
| 1251                               | 110          | 2251         | 55              | Extension for reply within first month                                     |
| 1252                               | 420          | 2252         | 210             | Extension for reply within second month                                    |
| 1253                               | 950          | 2253         | 475             | Extension for reply within third month                                     |
| 1254                               | 1,480        | 2254         | 740             | Extension for reply within fourth month                                    |
| 1255                               | 2,010        | 2255         | 1,005           | Extension for reply within fifth month                                     |
| 1401                               | 330          | 2401         | 165             | Notice of Appeal   |
| 1402                               | 330          | 2402         | 165             | Filing a brief in support of an appeal                                     |
| 1403                               | 290          | 2403         | 145             | Request for oral hearing   |
| 1451                               | 1,510        | 1451         | 1,510           | Petition to institute a public use proceeding                              |
| 1452                               | 110          | 2452         | 55              | Petition to revive – unavoidable   |
| 1453                               | 1,330        | 2453         | 665             | Petition to revive – unintentional   |
| 1501                               | 1,330        | 2501         | 665             | Utility issue fee (or reissue)   |
| 1502                               | 480          | 2502         | 240             | Design issue fee   |
| 1503                               | 640          | 2503         | 320             | Plant issue fee  |
| 1460                               | 130          | 1460         | 130             | Petitions to the Commissioner  |
| 1807                               | 50           | 1807         | 50              | Petitions related to provisional applications                              |
| 1806                               | 180          | 1806         | 180             | Submission of Information Disclosure Stmt                                  |
| 8021                               | 40           | 8021         | 40              | Recording each patent assignment per property (times number of properties) |
| 1809                               | 770          | 2809         | 385             | Filing a submission after final rejection (37 CFR 1.129(a))                |
| 1810                               | 770          | 2810         | 385             | For each additional invention to be examined (37 CFR 1.129(b))             |
| 1801                               | 770          | 2801         | 385             | Request for Continued Examination (RCE)                                    |
| 1802                               | 900          | 1802         | 900             | Request for expedited examination of a design application                  |
| Other Fee (specify)                |              |              |                 |  |
| * Reduced by Basic Filing Fee Paid |              |              | SUBTOTAL (3)    | (\$ 40)  |

| SUBMITTED BY       |   | Complete if applicable               |                |                  |
|--------------------|---|--------------------------------------|----------------|------------------|
| Name (Print/Type)  | Signature   | Registration No.<br>(Attorney/Agent) | Telephone      | Date             |
| Douglas A. Collier |  | 43,556                               | (317) 634-3456 | January 28, 2004 |

\* WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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